

CONCURRENCE COPY

NOV 2 2005

Honorable Anibel Acevedo Vila  
Governor of the Commonwealth of Puerto Rico  
La Fortaleza  
P.O. Box 00902-0082  
San Juan, PR 00902-0082

Dear Governor Acevedo Vila:

On October 20, 2005, I sent you a letter (enclosed for your convenience) stating my concern with the lack of progress being made in implementing the EPA approved Commonwealth of Puerto Rico's Municipal Solid Waste Management Program (SWMP) and the resulting municipal landfills' non-compliance with Federal and Commonwealth requirements.

In the October 20<sup>th</sup> letter, I requested that the Commonwealth government demonstrate to EPA by March 1, 2006 that it was making significant progress in implementing an effective Solid Waste Management Program, and that I would send you a follow-up letter setting forth our specific expectations for demonstrating such progress prior to our meeting in November. As promised, enclosed with this letter are the specific expectations.

I look forward to meeting with you on November 10, 2005 to discuss these short-term milestones, as well as the mid- and long-term actions needed to develop and implement an effective SWMP.

Sincerely,

*AS*

Alan J. Steinberg  
Regional Administrator

Enclosures

cc: Carlos W. Lopez Freytes, Esq., Chair  
Environmental Quality Board

Dr. Javier A. Quintana, Executive Director  
Solid Waste Management Authority

CONCURRENCES

Name: C. Plossl      Init: sd      Date: 11/1/05      Filename: G:RCB/cp/CoverLetterMarch1stMilestones-1Nov05 (for encl.: March1stMilestones1Nov05)

Symbol	DECA-RCB/HWC	DECA-RCB/HWC	DECA-RCB		DECA-DO		DRA	RA
	C. Plossl	J. Golumbek	G. Meyer		D. LaPosta		K. Callahan	A. Steinberg
Surname	<i>(Signature)</i>	<i>(Signature)</i>	<i>(Signature)</i>		<i>(Signature)</i>		<i>(Signature)</i>	<i>(Signature)</i>
Date	1 Nov 05	1 Nov 05	11/1/05		11/1/05		11/2/05	11/2/05



Javier Valez Arocho  
Secretary, Natural and Environmental Resources





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

OCT 20 2005

Honorable Anibel Acevedo Vila  
Governor of the Commonwealth of Puerto Rico  
La Fortaleza  
P.O. Box 00902-0082  
San Juan, Puerto Rico 00902-0082

Dear Governor Acevedo Vila:

I am looking forward to meeting with you in November to discuss several important environmental issues facing the Commonwealth of Puerto Rico.

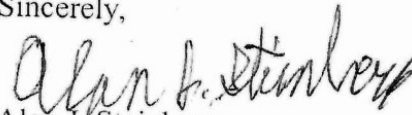
One of the critical items is the implementation of the solid waste program of Puerto Rico. Puerto Rico's program was determined adequate and the Puerto Rico Solid Waste Management Plan was approved in 1994 by EPA. The lack of progress in implementing the program and the Plan has resulted in landfills that do not comply with Federal and Commonwealth requirements.

During our meeting, I expect that we will discuss how the government of Puerto Rico is making progress in developing and implementing an effective plan with short and long term actions and schedules to bring the numerous "open dumps" that unfortunately still exist on the island into compliance with operating requirements. These "open dumps" represent actual or potential threats to the environment.

Based on EPA's stated concerns in communications to your government over the past two years, including our letter to you dated March 23, 2005, I am requesting that the Commonwealth government demonstrate to this Agency no later than March 1, 2006 that significant progress is being achieved. EPA will issue a follow-up letter setting forth our specific expectations prior to our meeting in November.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460  
In closing, let me say that I look forward to continuing to work with you to address this very important issue and to meeting with you in November. Please do not hesitate to contact me at (212) 637-5000 if you would like to discuss this further.

Sincerely,



Alan J. Steinberg  
Regional Administrator

cc: Carlos W. Lopez Freytes, Esq., Chair  
Environmental Quality Board

Dr. Javier A. Quintana  
Solid Waste Management Authority

Javier Valez Arocho  
Secretary, Natural and Environmental Resources

## **Actions Needed from the Commonwealth:**

### Solid Waste Management Plan

1. As requested in the April 20, 2005 letter from the then Acting Regional Administrator Kathleen C. Callahan to Carlos Lopez, Dr. Riera, and Javier Velez, please submit, in English, by December 30, 2005, a copy of the most current Solid Waste Management Plan for Puerto Rico. Include associated financing plans needed to implement the Solid Waste Management Plan, including specific financing mechanisms and funding sources for both capital and operational costs, along with a schedule for obtaining such financing. EPA will review and provide comments by February 10, 2006.

### Outreach on Solid Waste Management Plan

2. Governor to host a meeting, or series of meetings, among the municipalities and the significant corporate/private entities, before March 1, 2006, on the current Solid Waste Management Plan for Puerto Rico and Operation Compliance. These meetings should reflect EPA's comments on the current Solid Waste Management Plan and discuss the plans that the Central Government has for each of the open dumps/landfills, (e.g., closure of entire facility, closure of existing cells and construction of new cells that meet federal and equivalent Commonwealth requirements). How the financing will be achieved and who will be responsible for the design and construction of the new cells should also be discussed.

### Regulatory Changes

3. By November 30, 2005, officially notify EPA, in writing (in English), of all changes that have been made to the Puerto Rico solid waste regulations since EPA approved Puerto Rico's Solid Waste Management Program, including EPA's acceptance of Puerto Rico's solid waste regulations, in 1994. Also identify any relevant transfers of responsibility between agencies, or between offices within EQB, that have occurred with respect to landfill permitting and enforcement. For all regulatory changes, please have the Attorney General of the Commonwealth of Puerto Rico provide a precise description of the changes, rational for the changes, and certify as to the adoption of the changes. Include an English-language text of the revised regulations with a certification that it has been properly translated. Note that:
  - a. EPA's review of the November 10, 1997 Commonwealth's Solid Waste Management Regulations indicates that the definition of Lateral Landfill Expansion was revised as follows: "Horizontal growth of a existing landfill filling system beyond the limits previously contemplated in the environmental document and beyond the limits of the boundary." This definition appears to allow expansion beyond the waste handling area of the sanitary landfill without meeting the requirements for liners and leachate collection systems. This is contrary to federal regulations, and the October 4, 1993 Commonwealth regulations, which were reviewed and accepted by EPA. These regulations required liners and leachate collection systems if lateral expansion occurred (defined as "A horizontal expansion of the boundaries of the waste-handling area of the SL (sanitary landfill) facility"); and





- b. With respect to Financial Responsibility, EPA's review of the Commonwealth's November 10, 1997 regulations indicates that Financial Responsibility is not required for municipalities. This is contrary to the federal regulations and the October 4, 1993 Commonwealth regulations, which only exempted the Central Government of the Commonwealth of Puerto Rico. The November 10, 1997 regulations deleted "...Central Government of the Commonwealth of Puerto Rico" and substituted "The entities of the Government of Puerto Rico..."

These two regulatory changes are contrary to what federal regulations require and it is important that steps be taken to reinstate the prior October 4, 1993 Commonwealth solid waste regulations with respect to the definition of lateral landfill expansion and financial responsibility. At a minimum, by March 1, 2006, the reinstated regulations should be publicly noticed. EPA will attempt to advise of additional comments or concerns regarding other identified changes to the Commonwealth regulations by January 10, 2006.

#### Closure of Reopened Dumps

4. Through the issuance of Final Enforcement Orders by March 1, 2006, take action against public and private operators and owners to close any open dumps that were previously closed or ordered closed, but were officially allowed to reopen, such as Santa Isabel, or are illegally still operating (e.g., Aguadilla).

#### Operation Compliance Implementation

5. By March 1, 2006, EQB must Public Notice at least the Añasco, Barranquitas, Jayuya, Juana Díaz, Juncos, and Lajas Consent Orders (which include the negotiated Compliance Plans). All Publicly Noticed Consent Orders must include:
  - a. Needed interim measures, including ensuring security, controlling waste acceptance, applying daily cover, groundwater and methane (explosive gas) monitoring, and stormwater run-on/off controls;
  - b. Requirements for all public and private owners/operators to meet financial assurance requirements pursuant to Puerto Rico Solid Waste Regulations which were adopted October 4, 1993 and accepted by EPA (see the discussion above in Paragraph 3); and
  - c. Any additional provisions of the Orders, beyond interim measures, should be consistent with the long-term plans for the facilities. Orders may have to be amended in the future to include requirements of the long-term plans.

#### Closure of Florida Open Dump

6. By March 1, 2006, EQB must public notice the Consent Order for the Florida open dump. This Consent Order must require the closure of the entire open dump. It is especially important that this open dump be closed because it is located in a very vulnerable geological area which serves as a drinking water source. Moreover, we understand that there has been informal consideration by EQB about the possibility of closing this open dump. The Consent Order must require compliance with the interim measures specified in 5.a above until closure is completed.

